

Many criminal cases are concluded without a trial. A case may be disposed of without a trial through a plea agreement or diversion program. Under a plea agreement, you agree to plead guilty or no contest to certain charges and the prosecutor agrees to ask the court to dismiss others. Sometimes a prosecutor may amend the complaint to a lesser charge or be more lenient on sentencing recommendations.

The prosecutor cannot initiate plea negotiations and has no obligation to discuss or negotiate your case. In plea negotiations, criminal offense and history will be considered. Please remember that a plea agreement is made with the prosecutor; the judge is not part of the agreement. Even if the prosecutor agrees to certain sentencing recommendations, the judge makes the final decision on what the sentence will be.

Another type of plea agreement is called a diversion. In a diversion, you enter into a contract to comply with certain conditions and agree to be supervised by a diversion coordinator for a period of time (usually a year). Other conditions of a diversion may include attending classes, restitution, or a no-contact order with the victim(s). A processing fee and court cost fees must be paid at the time when applying for a diversion. If granted, additional fines will be assessed and must be paid as a condition of the diversion. Any additional evaluations, education or treatment programs will be at the defendant's expense. You will not be able to consume alcohol or illegal drugs while on diversion and may be required to submit to testing.

By agreeing to the conditions of a diversion, you give up the right to a speedy trial, to confront witnesses, and to present evidence. However, if you successfully complete all of the conditions, the charges against you will be dismissed. If you fail to comply with a condition, the diversion agreement may be terminated and the charges against you immediately reinstated.

A diversion is only for first time offenders and those who do not appear likely to engage in further criminal conduct. Remember plea agreements and diversions are done solely at the discretion of the prosecutor. Both are a privilege, not a right.